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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,373	10/05/2000	Burton A. Hipp	A-69620/DCA/JWC	2579
7590	01/20/2004		EXAMINER	
Flehr Hohbach Test Albritton & Herbert LLP Suite 3400 Four Embarcadero Center San Francisco, CA 94111			VAUGHN JR, WILLIAM C	
			ART UNIT	PAPER NUMBER
			2143	
DATE MAILED: 01/20/2004				

5

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/684,373	HIPP ET AL.
Examiner	Art Unit	
William C. Vaughn, Jr.	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

## **Disposition of Claims**

4)  Claim(s) 1-8 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-8 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 05 October 2000 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 .

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_ .

## **DETAILED ACTION**

1. This Action is in regards to the latest papers received on 30 April 2001.

### ***Priority***

The effective filing date for the subject matter defined in the pending claim in this application is 05 October 2000.

### ***Information Disclosure Statement***

2. The references listed in the Information Disclosure Statement submitted on 09 February 2001 have been considered by the examiner (see attached PTO-1449).
3. The application has been examined. **Claims 1-8** are pending. The objection(s) and rejection(s) cited are as stated below:

### ***Drawings***

4. The application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application.
5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description (i.e., item 250 and 254). In addition there are a number of other references mentioned in the specification that are not shown within the figures. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office

Action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 1-8** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Claim 1 recites the limitation "said running application" in line 6 of Applicant's specification. There is insufficient antecedent basis for this limitation in the claim. The Examiner will interpret this to mean "said running software application".
- b. Claim 7 recites the limitation "said running application" in line 30 of page 19 of Applicant's specification. There is insufficient antecedent basis for this limitation in the claim. The Examiner will interpret this to mean "said running software application".
- c. Claim 8 recites the limitation "said running application" in lines 11 and 12 of Applicant's specification. There is insufficient antecedent basis for this limitation in the claim. The Examiner will interpret this to mean "said running software application".
- d. Regarding claims 1, 7 and 8, the phrase "an environment similar to the environment of the computer" renders the claim indefinite because it is unclear as to what represents something that is similar to the environment. This phrase is both ambiguous

and unclear. See MPEP § 2173.05(d). The Examiner will interpret this to mean “the same environment”.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 1-2, 5-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Geaghan et al. (Geaghan), U.S. Patent No. 5,790,114 in view of Rothschild et al. (Rothschild), U.S. Patent No. 5,822,523.

10. Regarding **claim 1**, Geaghan discloses the invention substantially as claimed. Geaghan discloses *in a computer system, a method for propagating a single snapshot image of a running software application into multiple instances, wherein the process and an identifier associates with the application, said running application restored on a similarly configured computer having an operating system and having an environment similar to the environment of the computer where the process was snapshot image was produced, comprising the steps of: (a) dividing the snapshot image into shareable data and non-shareable data [see Geaghan, Col. 4, lines 4-21, Col. 27, lines 17-67 and Col. 28-15-29]; (b) producing at least one additional instance of the snapshot image upon restoration of the snapshot image [see Geaghan, Col. 28, lines 4-39]; (c) providing the shareable data to said additional instance* (Geaghan teaches that the GUI provides the necessary OLE functionality to allow a snapshot to be selected and dragged

by the mouse into another open OLE application), [see Geaghan, Col. 28, lines 15-29].

However, Geaghan does not explicitly disclose (c) controlling access by the additional instance to non-shareable data.

11. In the same field of endeavor, Rothschild discloses (e.g., server-group messaging system for interactive application). Rothschild discloses (c) controlling access by the additional instance to non-shareable data (Rothschild teaches that a control function for the group messaging server. The control function is responsible for all ULP messages that are sent or received by the GMS), [see Rothschild, Col. 16, lines 5-35].

12. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Rothschild's teachings of a server-group messaging system for interactive application with the teachings of Geaghan, for the purpose of efficient communication between multiple host computers over a conventional wide area communications network [see Rothschild, Col. 8, lines 21-32]. By this rationale **claim 1** is rejected.

13. Regarding **claim 2**, Geaghan-Rothschild discloses *wherein said non-shareable data is copied on a write operation* [inherent feature]. By this rationale **claim 2** is rejected.

14. Regarding **claim 5**, Geaghan-Rothschild discloses *wherein said additional instance is altered to provide customization of the application* [see Geaghan, Col. 30, lines 33-45]. By this rationale **claim 5** is rejected.

15. Regarding **claim 6**, Geaghan-Rothschild discloses wherein references to non-shareable resources are saved in original form [see Geaghan, Col. 29, lines 55-6 and Col. 30, lines 1-57]. By this rationale **claim 6** is rejected

16. Regarding **claims 7 and 8**, the limitations of these claims are substantially the same as that of claim 1, and are rejected for the same rationale in rejecting claim 1.

*Claim Rejections - 35 USC § 103*

17. **Claims 3 and 4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Geaghan-Rothschild as applied to claim 1 above, and further in view of Belsan et al. (Belsan), U.S. Patent No. 5,403,639.

18. Regarding claim 3, Geaghan-Rothschild discloses the invention substantially as claimed. However, Geaghan-Rothschild does not explicitly disclose wherein said non-shareable is multiplexed.

19. In the same field of endeavor, Belsan discloses (e.g., file server having snapshot application data groups). Belsan discloses wherein said non-shareable is multiplexed [see Belsan, Col. 8, lines 61-67].

20. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Belsan's teachings of a file server having a snapshot application data groups with the teachings of Geaghan-Rothschild, for the purpose of providing a more efficient way of sending data without wasting bandwidth.

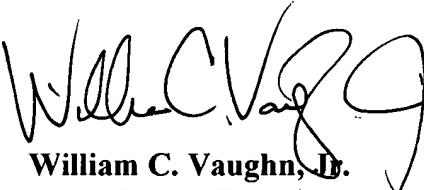
21. Regarding **claim 4**, Geaghan-Rothschild and Belsan discloses *wherein said non-shareable data is virtualized* [see Belsan, Col. 2, lines 43-54]. By this rationale **claim 4** is rejected.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Vaughn, Jr. whose telephone number is (703) 306-9129. The examiner can normally be reached on 8:00-6:00, 1st and 2nd Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9700.



William C. Vaughn, Jr.  
Patent Examiner  
Art Unit 2143  
08 January 2004